

16 May 1850. 13 VICT.



(Ireland.)

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TO

Amend the Law relating to Engines used in the
Rivers and on the Sea Coasts of Ireland for the
taking of Fish.

[Note. — The Words printed in *Italics* are proposed to be inserted
in the Committee.]

WHEREAS the Queen's Lieges in Ireland have, by Common Presumable
Law and by the Great Charter many Times confirmed in
Parliament, the Right of free and common Navigation and
Piscary in the Sea, and in Creeks and Arms of the Sea, and in the
5 navigable Rivers of Ireland, and may not, without Injury, be restrained
or hindered therefrom, except in Places where the Queen's most
Excellent Majesty, or some particular Subject or Subjects, hath or
have lawfully gained some Propriety therein exclusive of the common
Liberty: And whereas, for the better enforcing the said Common
10 Law and Great Charter in that Behalf, and for the better Protection
of the Fisheries in general, it is expedient to amend and explain the
several Acts relating to Engines used in the Fisheries of Ireland: Be
it therefore enacted by the Queen's most Excellent Majesty, by and
with the Advice and Consent of the Lords Spiritual and Temporal,
15 and Commons, in this present Parliament assembled, and by the
Authority of the same, That from and after the *passing of this Act* Construction
the several Interpretation Clauses in the said recited Acts contained of Acts and
shall be and are hereby repealed; and that in the Construction and of this Act.
350. A for

for the Purposes of the said recited Acts and of this Act, unless there be something in the Subject or Context repugnant to such Construction, the Words "Person," "Owner," and "Proprietor" shall mean and include the Queen's Majesty, and any Body Corporate, Aggregate, or Sole, as well as an Individual, and also any Com-
 5 pany or Partnership; and any Word importing the Singular Number only shall mean and include several Persons or Parties as well as one Person or Party, and several Things as well as one Thing respec-
 tively, and the converse; and any Word importing the Masculine Gender only shall mean and include a Female as well as a Male; 10
 and the Word "Lands" shall mean and include all Messuages, Lands, Tenements, and Hereditaments; and the Word "Waste" shall include and extend to any and to all uncultivated or unprofitable Lands; and the Word "County" shall include and extend to a
 15 County of any City or Town; and the Words "Estuary" and "Bay" shall include and extend to any Harbour or Roadstead; and the Word "Rivers" shall include and extend to Tributaries of Rivers, and to all other Streams and Watercourses; and the Word "Vessel" shall mean and include any Ship, Boat, Cot, Coble, or Curragh; and the Word "Fish" shall extend to and include Oysters and Oyster
 20 Brood; and the Word "Salmon" shall extend to and include Grilse, Pencil, Sea Trout, Samlets, Par, and all other Fish of the Salmon Kind, and the Spawn and Fry thereof; and the Word "Trout" shall extend to and include Pollen or Fresh-water Herring, and all Fish of the Trout Kind, and the Spawn and Fry thereof; and the Word 25
 "Net" shall mean and include all Descriptions of Tackle, Trawl, Trammel, Staks, Bag, Coghill, Eel, Haul, Draft, and Seine Nets, and all other Engines or Devices, of whatsoever Construction or Materials, or howsoever known or styled, which shall be used for the like Purposes as those in this Act or in the said recited Acts referred to; and the 30
 Words "Fixed Net" or "Fixed Engine" shall extend to and include Weirs, Staks, Bag, Stop, and Still Nets, and all other Engines or Devices used for the like Purposes, of whatsoever Construction or Materials the same may be, or however known or styled, and whether fixed to the Soil or held by Hand; and the Words "Close Time" or 35
 "Close Season" shall mean and include any Time or Season within which it is or shall be prohibited to fish for, take, or destroy any Salmon, Trout, Oysters, or any Fish of any of the Kinds in this Act or in the said recited Acts referred to, or the Brood, Spawn, or Fry thereof; and the Word "Fisheries" shall mean and include all 40
 Fisheries, whether several or public; and the Words "Several Fisheries" shall mean and include all Fisheries lawfully possessed and enjoyed as such under any Title whatsoever, being a good and valid Title at Law, exclusively of the Public, by any Person or Persons, whether in navigable Waters or in Waters not navigable, and 45
 whether

whether the Soil covered by such Waters be vested in such Person or Persons, or in any other Person or Persons; and the Words "Owner" or "Proprietor" shall mean and include every Person who shall be in the actual Possession or Use and Enjoyment, or Receipt of the
 5 Rents or Profits, of any Lands or Fisheries (as the Case may be), save that in every Case in which any Person shall be in possession or receipt of the Rents or Profits of any Fisheries or Lands under any Sequestration, Extent, Elegit, or other Writ of Execution, or as a Receiver under any Order of a Court of Equity, the Person against
 10 whom such Writ shall have issued, or who but for such Order would have been in possession, shall, jointly with the Person in possession by virtue of such Writ or Order, be deemed for the Purposes of this Act to be the Owner of such Fisheries or Lands; and the Words "Judge of Assize" shall, as to Cases arising or to be determined in
 15 the County of Dublin or County of the City of Dublin, mean and include a Judge of any of the Law Courts of Record in Dublin at Nisi Prius at the First Sittings after the pronouncing or making of any Order or Decision appealed from or complained of, or if such First Sittings shall commence within Twenty-one Days after the
 20 pronouncing or making such Order or Decision, then at the Sittings next immediately after such First Sittings: Provided always, that whenever any Fisheries or Lands to which the Provisions of this Act are intended to apply shall be vested in Her Majesty, the First Commissioner of Her Majesty's Woods, Forests, and Land Revenues for
 25 the Time being shall, for the Purposes of this Act, be substituted instead of the Owner of such Lands or Fisheries respectively.

II. And be it enacted, That where any Person shall be the Owner of any Lands, and also the Owner of or interested in some Question as to any Fisheries adjoining to such Lands, or carried on or exercised
 30 upon the same, such Person for the Purposes of this Act or the said recited Acts may act and be dealt with in both or either of the several Characters so borne by him as aforesaid.

In case of Lands and Fisheries vested in one Person, here he may act.

III. And be it enacted, That wherever the Owner of any Lands or Fisheries to which the Provisions of this Act or the said recited Acts
 35 are intended to apply, or any Person interested in any Question as to any Fisheries, shall be a Minor, Idiot, Lunatic, Feme Covert, beyond the Seas, or under any other legal Disability, the Guardian, Trustee, Committee of the Estate, Husband, Attorney, or Agent respectively, and whom they are hereby empowered to nominate under their Hands
 40 and Seal, shall for the Purposes of this Act and the said recited Acts be substituted in the Place of such Owner or Person so interested.

In case the Owner is under legal Disability, who to act.

Acts may be
done by
Agents duly
authorized.

IV. And be it enacted, That it shall be lawful for any Land Owner or Fishery Owner, by a Power of Attorney given in Writing under his Hand, to appoint an Agent to act for him in carrying into execution the Provisions of this Act or the said recited Acts; and all Things which by this Act or the said recited Acts are directed to be done by or with relation to any Person may be lawfully done by or with relation to the Agent so duly authorized of such Person; and every such Agent may be dealt with in all respects as such Person himself might have been dealt with under this Act or the said recited Acts; and every such Agent shall have full Power, in the Name and on behalf of his Principal, to take part in or act upon any Inquiry, or prosecute, oppose, or defend any Complaint, Appeal, Action, Writ, Suit, or other Proceeding, or attend, vote at, and take part in any Meeting, or do or suffer any other Act for the Purposes of this Act or the said recited Acts; and every Person shall be bound by the Acts of any such Agent, according to the Authority committed to him, as fully as if the Principal of such Agent had so acted; and the Power of Attorney under which the Agent shall have acted shall be produced, inspected, or registered, and Copies or Extracts thereof made, at such Times and Places and in such Manner as the Commissioners appointed for the Execution of the said recited Acts shall direct; and any such Power of Attorney may be in the Form following:

Power of
Attorney.

‘ I A.B. of [&c.] do hereby appoint C.D. of [&c.] to be my lawful Attorney to act for me in all respects as if I myself were present and acting; and I make this Appointment under and by virtue of an Act passed in the Year of Her present Majesty, intituled [here insert the Title of this Act].
(Signed) ‘A.B.’

Any Justice
or Justice of
the Peace for
the County
may exercise
the Powers
given by this
Act and the
said Act.

V. And be it enacted, That where by the said recited Acts or any of them any Power, Privilege, or Authority is given to or conferred upon any Justice of the Peace, or to any Two or more Justices of the Peace assembled in Petty Sessions, such Power, Privilege, or Authority shall be henceforth deemed and taken to have been given to or conferred upon, and may be exercised by any other Justice of the Peace or (as the Case may be) Justices of the Peace in Petty Sessions assembled, for and within the same County or other Jurisdiction: Provided always, that nothing herein-before contained shall take away, prejudice, or affect any Right of Appeal which by this Act and the said recited Acts or any of them is given against any Order or Proceeding of any such Justice or Justices.

40

Existing
Fishery Dis-
tress, &c.
may be al-

VI. And whereas the Commissioners appointed under the said recited Acts respectively for the Execution of the same, have, for the Purpose of regulating the Use of certain Engines, and generally for the

the Purposes of the said recited Acts, made sundry Divisions and Sub-divisions of Fishery Districts, and have duly published the same respectively, and Boards of Conservators have been elected for such Districts respectively, which said Divisions and Sub-divisions respectively it may be desirable to revise and alter from Time to Time for the Purposes of the said recited Act and of this Act: Be it therefore enacted, That the said Commissioners for the Execution of the said recited Acts may for the Purposes aforesaid, upon the written Application of and signed by at least *One Third* Part in Number of the Board of Conservators for any Fishery District, whether now subsisting or which may have been altered, sub-divided, united, or made by the said Commissioners under the Authority of this Act, alter or sub-divide such District or any Electoral Division thereof, and may fix other Boundaries for the same, or unite any Two or more Electoral Divisions of One District, or make any new or additional or substituted Electoral Division in any District: Provided always, that every such Alteration or Sub-division, Union, or Addition, or Substitution shall be duly published and described, with the Boundaries of the same, in such Manner as is in and by an Act passed in the Twelfth Year of Her present Majesty, intituled "An Act for the Protection and Improvement of the Salmon, Trout, and other Inland Fisheries of Ireland," required to be done in the Case of Divisions and Sub-divisions of Fishery Districts made under that Act.

tered from
Time to
Time by the
Commissioners.
c. 92.

11 & 12 Vict.
c. 92.

VII. And be it enacted, That the Officers and Men of the Royal Navy and Coast Guard Service, and of the Constabulary Force in Ireland, shall, for the Purposes of the said recited Acts and this Act, have all such Powers, Privileges, and Authorities as are by the said Acts or this Act conferred upon Water-bailiffs (by whomsoever appointed), Sub-Inspectors of Districts, and Officers appointed by the said Commissioners or by any Board of Conservators (as the Case may be), for the Protection of the Fisheries of Ireland, or other the Purposes of the said recited Acts or this Act, subject nevertheless to such Orders as shall in that Behalf be from Time to Time made by the proper commanding Officers of the said Services and Force respectively, with the Approbation of the Lord Lieutenant or other Chief Governor or Governors of Ireland for the Time being.

Powers of
Officers and
Men of Navy
and Coast
Guard, and
the Constabulary.

VIII. And whereas by the said recited Act of the Twelfth Year of the Queen it is provided that the Engines therein described for the taking of certain Fish shall be duly licensed upon Payment of a Licence Duty or Rate, as the Case may be, not exceeding the Scale of Duties contained in the Schedule to the said recited Act annexed: And whereas it is expedient to make other Provisions in that Behalf: Be it therefore enacted, That from and after the First

New Scale
of Licence
Duties on
Engines.
11 & 12 Vict.
c. 92.

Day of January One thousand eight hundred and fifty-one the said recited Scale of Licence Duties shall be repealed, and the Scale of Licence Duties specified in the Schedule to this Act annexed shall be substituted in lieu thereof, for all the Purposes of the said last-recited Act and of this Act; and that from and after the Day last 5 aforesaid no Rate upon the Poor Law Valuation of any Fishery shall be payable for or upon obtaining any such Licence as in the said last-recited Act is expressed; but all Engines, Nets, Instruments, or Devices soever for the taking of Fish of the Salmon or Trout Kind, or of Eels (except such Fish as in the said last-recited Act are excepted), 10 shall, from and after the Day last aforesaid, be duly licensed in such Manner as is by the said last-recited Act in other respects provided, but only upon Payment of such Licence Duties (not exceeding the respective Amounts of Licence Duties in the Schedule to this Act specified) as the Conservators for the Time being shall, under the 15 Powers herein-after in that Behalf conferred upon them, determine and appoint: Provided always, that unless and until they shall otherwise appoint, all Licence Duties payable under this Act shall, from and after the Day last aforesaid, be of such respective Amounts as in the Schedule to this Act are specified, and none other. 20

District
Funds to be
applied by
the Conserva-
tors for
the Year.

IX. And be it enacted, That where any Monies shall be received by the Treasurer of any District in respect of Licence Duties for the Year in which the then next Election of Conservators is to take place, such Monies shall, until such Election, be carefully retained by such Treasurer, and shall, after such Election, be paid over by him to or to the 25 Order of the new Board of Conservators, to be applied by them according to the Provisions of the said recited Acts and of this Act.

Licence
Duties to be
regulated
according to
the comparative
Productive-
ness of En-
gines.

X. And be it enacted, That from and after the *First Day of January One thousand eight hundred and fifty-one*, it shall be lawful for the Board of Conservators for each District for the Time being, 30 from Time to Time, as they shall think fit, to fix and determine the Amount of Licence Duty to be paid for each Year for every Engine, Net, Instrument, Weir, or other Device (whether set forth in the Schedule to this Act or not) used for the taking of Salmon, Trout, Pallen, or Fish of the Salmon Kind, and for the taking of Eels, 35 (except only such Eels as in the said recited Act of the Twelfth Year of the Queen are excepted), within such District, or on or off the Sea Coast thereof, such Amount to be regulated, so far as practicable, in each Case, according to a fair and reasonable Estimate of the relative Productiveness and Value of every such Engine, Net, 40 Instrument, Weir, or Device to the Party using the same within the District wherein the same is so to be licensed, regard being had to the comparative Facilities of Capture in such District, and other Circumstances

Circumstances peculiar to each such Case, in the making of such Estimate; and that the Party proposing to use any such Engine, Instrument, Net, Weir, or Device not enumerated in such Schedule shall previously give Notice to some Constabulary or Const Guard Officer of the District, or to some Inspector appointed under this Act, of his Intention to use the same, who shall and is hereby required to forward to the said Commissioners or the said Conservators, as the Case may be, a Description thereof, as to its relative Capability of Capture as compared with the Engines, Instruments, Nets, Weirs, or Devices set forth in the said Schedule, and shall furnish the Name by which it shall be designated, upon which the Commissioners or the said Conservators, as the Case may be, may authorize the Use of the same, upon Payment of the Licence Duty which they may fix, and cause the same to be inserted in the Schedule of Licences for the said District.

XI. And be it enacted, That any Party who shall conceive himself or any other Person to be unduly or unequally or insufficiently charged by any such Board of Conservators with any Licence Duty as aforesaid may present his Appeal therefrom, either to the said Commissioners or to the going Judges of Assizes at the then or then next Assizes holden for the County or Jurisdiction wherein his Fishery District is situate; and such Commissioners or Judges, as the Case may be, shall hear and examine into such Appeal, and adjudicate thereon, and such their Adjudication shall be final: Provided always, and be it enacted, that until and unless any Charge shall be reduced or disallowed by such Commissioners or Judges (as the Case may be), the Party charged shall be deemed liable to the full Amount of Licence Duty wherewith he shall have so been charged: Provided also, that if such Charge shall be so reduced or disallowed as aforesaid, such Reduction or Disallowance (as the Case may be) shall relate back to the Time of making such Charge, and shall operate either by way of further Charge or of Discharge in full, or pro tanto, as the Case may be; and if it shall operate by way of Discharge as aforesaid, and the Party so discharged shall have theretofore actually paid the Amount of such Charge, he shall immediately upon such Adjudication be entitled to recover back from the said Board of Conservators for such District the full Amount of such Charge, or (as the Case may be) the Excess beyond or over the true Amount of such Charge, in conformity with the said Adjudication: Provided always, that due Notice of the Party's Intention to present such Appeal shall be by him served upon the said Board of Conservators within *Ten Days* after the making of such Charge: Provided also, that the Amounts of Licence Duties shall not be by any such Adjudication increased beyond the respective Amounts specified in the Schedule to this Act annexed.

350.

XII. And

Provisions
in case of
Vacancies in
the Board of
Conserva-
tors.

XII. And be it enacted, That in case any Conservator shall die or become incapable to act during the Year for which he is elected, the other Conservators elected for the same District (notwithstanding such his Death or Incapacity, and whether any Person shall or not be elected in his Room,) shall immediately summon another General Meeting of the Persons in his Electoral Division so entitled to meet as in the said Act of the Twelfth Year of Her present Majesty is mentioned, for the Purpose of electing a Conservator in his Room, and such Meeting shall be so summoned and held as is therein provided with respect to the annual General Meetings, and the Person elected at such Meeting shall be and continue and act as a Conservator for such Electoral Division and District during the Residue of the said Year: Provided nevertheless, that in the meantime and until such new Election, the said other Conservators shall act for such District in all respects as they might have done but for such Death or Incapacity.

Justices of
the Peace,
being Con-
servators, are
not disquali-
fied from
sitting at the
Trial of
Offences
against this
Act.

XIII. And be it enacted, That no elected or other Conservator, being also a Justice of the Peace for the County or Counties or other Jurisdiction within which his District or Electoral Division is situate, shall be thereby disqualified to sit and adjudicate as such Justice of the Peace, or at any Quarter or Petty Sessions within the same, upon any Complaint made or Prosecution instituted by or on the Behalf of the Board of Conservators of which he is such Member, in respect of any Offence against this Act or the said recited Acts: Provided always, that no elected or other Conservator shall be qualified, so long as he holds such Office, to receive or hold any Office or Appointment under this Act to which any Salary, Allowance, or Remuneration is incident.

Engines not
to be fixed so
as to injure
common
Fishery or
Navigation.

XIV. And be it declared and enacted, That it shall not be lawful for any Person whomsoever to fix or erect or maintain any Weir, Dam, Stake Net, or other fixed Engine for the taking of Fish, or the placing of a Net in suchwise as to be injurious or detrimental to the Navigation or free Passage of Fish to, in, from, and along the Sea, or any Bay or Estuary, or any navigable River or Lake, or as that thereby or by means thereof the Queen's most Excellent Majesty and Her liege Subjects, or any of them, are or is or may be prejudiced in or hindered from the full and free Exercise and Enjoyment of any Right vested in Her said Majesty or Her said liege Subjects, or any of them, of navigating along, into, or in, or fishing upon or in the Sea, or any Estuary or Bay, or any navigable River or Lake.

Owners of
Several Fish-
eries empow-
ered to erect

XV. And be it enacted, That it shall and may be lawful for any Person legally possessed of or entitled to any Several Fishery in or along any Bay or Estuary or Part of the Sea Coast in Ireland, to fix or

or erect or maintain, or authorize and empower any Lessee or Assignee to fix or erect or maintain or use, within the Limits and Bounds of such Fishery, but subject to the Provisions of this Act and the said recited Acts, and also to such Regulations and Restrictions as may from Time to Time be made by the said Commissioners pursuant to the Powers in them reposed by the said recited Acts or any of them, any Stake Weir, Head Weir, Stake Net, Bag Net, or other fixed Net for the taking of Salmon.

Weirs in certain Cases.

XVI. And be it enacted, That it shall and may be lawful for every Person who shall hold and occupy, as Tenant in Fee Simple or in Fee Tail, or as Tenant for Life, or as Tenant under any Lease for a Life or Lives, or as Tenant for a Term of Years of which not less than Fourteen Years shall be unexpired at the Time of first erecting such Net, any Land adjoining the Sea Shore or any Estuary, not being within the Limits of any such Several Fishery, to fix or erect or maintain or use any such Stake Weir, Head Weir, Stake Net, Bag Net, or other fixed Net as aforesaid, upon any Part of the Shore adjoining such Land, but subject to the Provisions of this Act, and to such Regulations and Restrictions as may be from Time to Time made by the said Commissioners as aforesaid: Provided always, that no Tenant under any Lease for a Life or Lives determinable, or for Years of which less than One hundred shall be unexpired, shall be empowered to fix or erect such Stake Nets or other fixed Nets as aforesaid without the previous Consent in Writing of the chief Landlord or Lessor seized of any Rent and Reversion in such Land.

Landowners empowered to erect Weirs in certain Cases.

XVII. And be it enacted, That the placing, erecting, or maintaining of no such Stake Weir, Head Weir, Stake Net, Bag Net, or other fixed Net as aforesaid shall give or confer, or corroborate or strengthen any Right or Title to the Occupancy of the said Sea Coast or Shore (except for the Purpose of attaching the said fixed Nets thereto during such Time as the Right so to attach them shall endure, and no longer), or to any such Several Fishery, and that the Queen's most Excellent Majesty, and all the Subjects of this Realm, shall continue to have, exercise, and enjoy all Her and their other Rights of fishing or other Rights whatsoever in or along the said Sea Shore or Coast, or the Shore of such Estuary as aforesaid, subject to the Provisions of this Act.

Public Rights not to be affected by such Weirs.

XVIII. And be it enacted, That no Person or Persons, other than the Person or Persons entitled to exercise such Right as before mentioned, under the Provisions aforesaid, shall place, erect, maintain, or use any Weir, fixed Net, or other Contrivance for placing or erecting Nets or taking of Fish on any Parts of the Coast of Ireland, or on the Bank or Shore of any River or Estuary wherein the Tide

Penalties for erecting or using Weirs contrary to this Act.

ebbs and flows, or in the Sea or Tideway adjoining such Coast, Bank, or Shore; and that if any Person or Persons other than the Person or Persons so entitled as aforesaid shall place, erect, maintain, or use any Weir, fixed Net, or other such Contrivance as aforesaid, contrary to this Act, he or they being thereof convicted shall for every such Offence forfeit and pay a Sum not exceeding *Ten Pounds* nor less than *One Pound*, together with the further Penalty of *Ten Shillings* for every Fish taken or destroyed by him or them by means of such Weir, fixed Net, or Contrivance; and the said Weir, fixed Net, or Contrivance shall also be forfeited, and ordered to be 10
 abated or removed at the Expense of such Offenders or Offender, by the Commissioners, or (as the Case may be) by the Magistrate before whom such Conviction shall be had, and the Materials thereof shall be disposed of in such Manner as is by the said recited Acts or any of them directed with respect to illegal Nets used or legal Nets 15
 illegally used for fishing.

Commissioners may adjudge on Complaints of illegal fishing, and order Weirs to be abated.

XIX. And be it enacted, That where any Complaint in Writing, signed by the Party making the same, shall be exhibited to the said Commissioners, or to any Two Justices of the Peace for the County or other Jurisdiction wherein or on the Shore or Boundary whereof 20
 any Weir, fixed Net, or Engine for placing or erecting of Nets or Engines for taking Fish, or any Part of the same respectively, hath been or is erected, constructed, maintained, or used, stating such Erection, Construction, Maintenance, or User to be contrary to Law, and setting forth the material Circumstances whereon such 25
 Complaint is grounded, or where, in the Judgment of the said Commissioners or (as the Case may be) the said Justices of the Peace themselves, there is Reason to believe that any such Weir, fixed Net, or other such Engine as aforesaid, or any Part thereof, hath been or is erected, constructed, maintained, or used contrary to 30
 Law, the said Commissioners or Justices (as the Case may be) shall summon before them the Party or Parties erecting, maintaining, or using such Weir, fixed Net, or Engine, or the Owner or Owners of the Land whereon the same is so erected, to attend at some convenient Place within the County or Jurisdiction in which or on the Shore or 35
 Boundary of which any such Weir, fixed Net, or Engine, or any Part thereof, may be so erected, constructed, maintained, or used; and the said Commissioners or Justices (as the Case may be) shall accordingly, at the Time and Place mentioned in any such Summons, upon Proof of the personal Service of such Summons, or upon Proof of 40
 such Summons having been left at or on board the Vessel, or at or posted on the known Residence of the Party or Parties so summoned, proceed to hear all such pertinent Evidence as may be adduced before them, whether at the Instance of them the said Commissioners or Justices (as the Case may be), or on behalf of the Party (if any) 45
 making

making such Complaint, or on behalf of the Party or Parties summoned; and if, after hearing all such Evidence, the said Commissioners or Justices (as the Case may be) shall so think fit and right, it shall be lawful for the said Commissioners or Justices (as the Case
 5 may be), (whether the said Party or Parties summoned shall have appeared or not at such Hearing) to make an Order or Decision in Writing under their Hands and Seals, declaring that such Weir, fixed Net, or Engine, or any Part thereof, is a Nuisance, and shall be abated and removed; and the said Commissioners or Justices (as the Case
 10 may be) shall thereupon, by Warrant under their Hands and Seals, direct or authorize some proper Person to abate and remove such Weir, fixed Net, or Engine, or Part thereof, at the Expense of the Party or Parties appearing to the said Commissioners or Justices (as the Case may be) to have erected, constructed, maintained, or used
 15 the same, or suffered such Erection, Construction, Maintenance, or User, or any of them, and thereupon the same shall be abated and removed accordingly; and, subject to the Appeal herein-after provided for, it shall be lawful for the said Commissioners or Justices (as the Case may be) to order and direct that the Materials of any
 20 such Weir, fixed Net, or Engine, or any Part thereof, be forfeited and sold, and the Produce arising from such Sale applied in such Manner as is in the said recited Acts provided in Cases of illegal Nets used, or legal Nets illegally used, for fishing.

XX. Provided always, and be it enacted, That if any Person, whether Complainant or Defendant, shall think himself aggrieved by any such Order or Decision of the said Commissioners or Justices of the Peace (as the Case may be), such Person may appeal to the next going Judges of Assize at the Assizes to be held for the County, County of the City, or Town in which or on the Shore or Boundary
 30 of which any such Weir, fixed Net, or Engine shall have been so erected, constructed, maintained, or used, provided such Assizes shall be held at any Time not less than *Thirty-one* Days after the Time the said Commissioners or Justices (as the Case may be) shall have made any such Order or Decision; and in case such Assizes shall
 35 be held within *Thirty-one* Days from the Time of such Order or Decision, such Appeal shall be made to the Assizes to be held in and for such County, County of a City, or Town next after such first Assizes; and that no such Appeal shall be allowed, received, heard, or determined unless the Party appealing shall, within *Twenty-*
 40 *one* Days from the Date of such Order or Decision, give Notice in Writing to the said Commissioners or Justices of the Peace (as the Case may be) of his Intention to try such Appeal, and decide whether the Party against whom such Complaint was made had a Right to erect, construct, maintain, or use such Weir, fixed Net, or Engine, or
 45 any Part thereof, or suffer such Erection, Construction, Maintenance,

*Appeals from
 such Adjudi-
 cations.*

or User, at the Time or in the Place where the same may have been so erected, constructed, maintained, or used: Provided always, that in case of such Appeal being made against any Order or Decision for the Abatement or Removal of any such Weir, fixed Net, or Engine, or Part thereof, as aforesaid, and Notice given as aforesaid, the Materials of such Weir, fixed Net, or Engine, or Part thereof, as the Case may be, shall be deposited in the Custody of such Officer or Men of Coast Guard or Constabulary, or with such other Party or Person as the said Commissioners or Justices of the Peace (as the Case may be) may direct or appoint for the Purpose, there to remain and be kept until the Matter of such Appeal shall be decided as aforesaid, or until the Time for prosecuting the same shall have expired, and if such Decision shall be in favour of the Appellant such Materials shall thereupon be returned to such Appellant.

*Penalties for
erecting or
re-erecting
Weirs after
Conviction.*

XXI. And be it enacted, That if, after any such Order or Decision of the said Commissioners or Justices of the Peace for abating or removing any such Weir, fixed Net, or Engine, or any Part thereof, as aforesaid, as in this Act is herein-before authorized to be made, unless and until the same shall be reversed on Appeal, any Person shall erect, re-erect, use, or fish with any Weir, fixed Net, or Engine on any Part thereof as aforesaid, in or adjoining or contiguous to any Place where it may have been decided by the said Commissioners or Justices (as the Case may be) that any such Weir, fixed Net, or Engine, or any Part thereof, should be abated and removed, or if any Person shall erect, re-erect, use, or fish with any Weir, fixed Net, or Engine, or any Part thereof, contrary to Law, and after Conviction under this Act or any of the said recited Acts of any Person for erecting, using, or fishing with any Weir, fixed Net, or Engine, or any Part thereof, in the same Place, or in, adjoining, or contiguous to the same Place, or for erecting, using, or fishing with any Weir, fixed Net, or Engine, or any Part thereof, of the same Description or used for the same Purposes, then and in every such Case the said Commissioners or the Conservators of the District, or any Two Justices of the Peace for the County or other Jurisdiction wherein the said Weir, fixed Net, or Contrivance, or any Part thereof, shall have been so erected or re-erected, or used, or fished with, shall from Time to Time, and so often as any such Weir, fixed Net, or Engine, or any Part thereof, as aforesaid, shall be so erected, re-erected, used, or fished with, abate and remove the same, at the Expense of the Party or Parties erecting, re-erecting, using, or fishing with the same and the Owners of the Soil whereon such Weir, fixed Net, or Engine, or any Part thereof, shall be so erected, re-erected, used, or fished with, or any or either of them; and further, that the Materials of every such Weir, fixed Net, or Engine, or such Part thereof as aforesaid, shall be

be forfeited and sold, and that the said Party or Parties and Owner shall (independently of all other Forfeitures and Penalties to which under this Act or the said recited Acts he or they may be liable) forfeit and pay for every such Offence any Sum not less than *Twenty Pounds*, and also any Sum not exceeding *Ten Pounds* nor less than *Two Pounds* for every Day during which such Weir, fixed Net, or Engine, or such Part thereof, shall continue to be so erected, re-erected, used, or fished with, as aforesaid; and that the Produce of such Sale and all such Forfeitures and Penalties respectively shall be disposed of and applied in such Manner as is in and by the said recited Acts directed in regard of illegal Nets or Nets illegally used for fishing.

XXII. And be it enacted, That nothing in the said recited Acts or this Act contained shall take away or in any Manner lessen or impair the Powers of Her Majesty's High Court of Admiralty, or any other Court or Jurisdiction, in relation to the Removal or Abatement of Nuisances accruing or occasioned to Navigation, Fishery, or the Passage of Fish, by the placing or maintaining or using of Weirs, fixed Nets, or other Contrivances.

Jurisdiction of Admiralty and other Courts reserved.

XXIII. And be it enacted, That in any Action or Prosecution for or in respect of any of the Trespasses or Nuisances aforesaid it shall not be necessary to set forth in the Declaration or Indictment the Metes or Bounds of the Place in which the Trespass or Nuisance complained of hath been committed, and that it shall be sufficient to state generally that the same was committed within the District in which the Fishery in question shall happen to be situate.

Metes and Bounds not necessary to be set out in Records.

XXIV. And be it enacted, That from and after the passing of this Act, if any Person entitled to or possessed of the Fishing of any River or Branch thereof, or any Weir, Dam, or Dyke, and not being by Prescription or other legal Title exempted from the Obligation of having, making, or maintaining any Free Gap or Queen's Share therein, shall omit or neglect to have, make, or maintain such Free Gap or Queen's Share of the Dimensions or in the Place or to construct it in the Manner now by Law required, or shall reduce the Width of any existing Free Gap or Queen's Share, or substitute a Free Gap or Queen's Share of less Width in lieu thereof, the said Commissioners may cause such Alterations to be made, and recover the Expenses thereof against such Person, and the Person so offending shall also forfeit and pay a Sum not exceeding *Fifty Pounds* nor less than *Ten Pounds*, and shall also for every Fish taken by means of such Weir, Dam, or Dyke, so long as such Free Gap or Queen's Share shall not be left, made, or maintained of the Dimensions or in the Place or shall not be constructed in the Manner now by Law required,

Penalties for Neglect to make or maintain the statutory Free Gap or Queen's Share.

required, or shall be reduced in Width, or shall remain of less Width than that in lieu of which it is substituted, forfeit and pay the Sum of *Ten Shillings*, and shall also for every Day during which such Free Gap or Queen's Share shall not be left, made, or maintained of the Dimensions or in the Place or shall not be constructed in the 5 Manner now by Law required, or shall be reduced in Width, or shall remain of less Width than that in lieu of which it is substituted, forfeit and pay a Sum not exceeding *Ten Pounds* nor less than *Five Pounds*; and such Expenses and Forfeitures shall be recovered in like Manner as is herein-after provided with respect to Penalties for 10 Offences against the said recited Acts and this Act: Provided always, that the Person who is lawfully entitled to or lawfully possessed of any Weir, Dam, or Dyke, and who shall have been ascertained and adjudicated to be not liable or compellable at Law to have, make, widen, or maintain, or to cause to be left, made, widened, or main- 15 tained, a Free Gap or Queen's Share therein, shall not be liable to any Penalty for not leaving, making, widening or maintaining (as the Case may be) such Free Gap or Queen's Share, until his Claim (if any) for Compensation for the Loss or Damage he may sustain by leaving, making, widening, or maintaining such Free Gap or Queen's 20 Share be settled and disposed of, and the Amount of Compensation (if any) paid, tendered, or lodged, according to the Provisions herein-after contained.

Commissioners may require Owners of Weirs in certain Cases to make Gaps therein, and furnish a Claim for Compensation.

XXV. And be it enacted, That where it shall have been ascertained and adjudicated that the Owner of any Weir, Dam, or Dyke 25 is not liable or compellable at Law to leave, make, widen, or maintain, or to cause to be left, made, widened, or maintained, any such Free Gap or Queen's Share in such Weir, Dam, or Dyke, it shall nevertheless be lawful for the said Commissioners, upon the Application of any Person or Persons who is or are interested in the Fisheries in or 30 Lands adjoining to the River in which any such Weir, Dam, or Dyke shall be situate, or who is or are licensed to fish and fishing within the District or Districts whereunto such River belongs, and who shall deposit or secure, to the Satisfaction of the said Commissioners, the Amount of the Cost of all Proceedings necessary to be taken under 35 the Provisions herein contained (if the said Commissioners shall require such Deposit or Security), to serve a Notice on the Owner, Lessee, or Occupier of such Weir, or at his or their known Place of Abode, and thereby to require the Owner of such Weir, Dam, or Dyke to make, widen, or open a Free Gap or Queen's Share therein 40 of such Construction and Dimensions as the said Commissioners shall deem fit and shall name in such Notice, not varying from the Construction nor exceeding the Dimensions specified in an Act passed in the Sixth Year of Her present Majesty, intitled "An Act to regulate
" the

" the Irish Fisheries," and to furnish his Claim for Compensation, or his Objections, if any, to making, widening, or opening such Free Gap or Queen's Share, within a Time to be specified in such Notice, not less than *Thirty Days* from the Service thereof on the Owner, Lessee, or Occupier of such Weir.

XXVI. And be it enacted, That every Owner of any such Weir, Dam, or Dyke, or of any Share, Estate, or Interest therein, may accept and receive as Satisfaction and Recompence for the Value of any Injury or Damage that shall be sustained on account of making, widening, or opening such Free Gap or Queen's Share, or in anywise relating thereto, such Sum of Money in respect thereof as shall be agreed upon between him respectively and the said Commissioners; and in case the said Commissioners and the said Party interested in such Weir, Dam, or Dyke, or sustaining such Injury or Damage, cannot or do not agree as to the Amount or Value of such Satisfaction, Recompence, or Compensation, the same respectively shall be ascertained and settled in manner herein-after directed.

XXVII. And be it enacted, That if any such Owner of such Weir, Dam, or Dyke as aforesaid shall neglect or refuse to treat, or shall not agree with the said Commissioners, or by reason of Absence or Disability cannot agree, or cannot be found or known, or shall not prove to the Satisfaction of the said Commissioners a clear Title to receive such Recompence or Compensation as aforesaid, or in case any such Owner of a Weir, Dam, or Dyke wherein such Gap is to be made, widened, or opened as aforesaid, shall not accept such Satisfaction or Recompence for the same as shall be offered by the said Commissioners, for the Space of *Thirty Days* after Notice in Writing given to the known Agent or Attorney of such Owner as aforesaid, or left at his Place of Abode, or at the House of the Lessee of such Weir wherein such Gap is intended to be made, widened, or opened as aforesaid, or in case the Parties interested in the Fisheries in or Lands adjoining the River in which such Weir, Dam, or Dyke shall be situate, or fishing within the District or Districts whereunto such River belongs, shall not agree with the Owner of such Weir, Dam, or Dyke, or shall not subscribe and deposit the Amount which the said Commissioners may agree upon with the said Owner of such Weir, Dam, or Dyke as the Amount of Compensation to be paid for making, widening, or opening such Free Gap or Queen's Share, or shall not agree upon the Proportions in which such Amount of Compensation is to be paid by the said several Parties respectively, then in every such Case the said Commissioners are hereby empowered, at a Time and Place to be specified in a Notice to be served as aforesaid, and published once in the Dublin

Gazette, and once in each Week for *Three* successive Weeks in a Newspaper circulating in the County or Counties in which such Weir, Dam, or Dyke shall be situate, and through or by which such River shall flow, to inquire and examine and assess and award the Sum of Money to be paid for such Recompence or Compensation as 5 aforesaid, and ascertain and settle in what Proportions the Parties interested in the Fisheries in or the Lands adjoining such River, or fishing within the District or Districts whereunto such River belongs, should contribute to pay the Sum so awarded, and the said Commissioners shall award such Recompence so to be assessed; and the said 10 Commissioners shall in such Award name or describe the Persons (if known to the said Commissioners) to whom respectively the Sum mentioned therein shall be paid, and in what Proportions the same shall be paid to and among such Persons where more than One, and the Weir, naming or describing the same, in respect of which such 15 Sum has been so awarded, and the Position and Breadth of such Free Gap or Queen's Share, and the Names or other Descriptions of the Parties who are to contribute the Amount awarded for such Recompence or Compensation as aforesaid, and the Proportion to be contributed by each respectively; and the said Commissioners shall 20 notify and appoint a Time and Place for holding a Meeting for the Confirmation of their said Award, and shall attend at such Time and Place, and at such Meeting, or at some Adjournment thereof, proceed to consider each Case, and hear all Objections which may be made thereto by any Person whatsoever, and receive all such Evidence 25 as they shall find pertinent and proper, and amend or confirm and settle each such Award accordingly; and such Award shall be conclusive and binding upon the Queen's most Excellent Majesty and all other Persons interested, except in the Case and subject to the Provisions hereinafter contained: Provided always, that the Person who 30 shall under the Provision before mentioned contribute to such Compensation shall be the Owner in Fee Simple or Fee Tail, or for a Lease of Lives renewable for ever, or for Life with Remainder to his Issue, or for ever, or for a Term of which not less than *One hundred Years* are unexpired, and from whom the Fishery or Right 35 of fishing shall not have been reserved.

Any Person
dissatisfied
with the Ad-
judication of
the Commis-
sioners may
appeal to a
Judge at the
Assizes.

XXVIII. And be it enacted, That if the Owner or other Person claiming Compensation on account of such making, widening, or opening of the Free Gap or Queen's Share in such Weir, Dam, or Dyke, or any Person liable to pay such Compensation as aforesaid, shall be 40 dissatisfied with the Award of the said Commissioners, it shall be lawful for the Person so dissatisfied to appeal to the Judges of Assize, or One of them, at the Assizes which shall be held next after any such Award shall have been made and settled as aforesaid for the County
wherein

wherein such Weir, Dam, or Dyke shall be wholly or in part situate, (provided the same shall not be held sooner than *Thirty-one* Days after the making of such Award,) the Party appealing, if there be sufficient Time after the making of such Award, having first given
5 to the said Commissioners *Twenty-one* Days Notice at least of his Intention of bringing such Appeal, and of the Matter thereof; and if there shall not be *Thirty-one* Days between the making of such Award and the Day appointed for holding such Assizes, then such Appeal may be tried at the Assizes which shall be holden for such
10 County next after the Expiration of *Thirty-one* Days from the making such Award, and the like Notice thereof shall be given; and any Judge at such Assizes or any Adjournment thereof, upon due Proof of such Notice having been given, is hereby empowered and required to hear and finally determine the Matter of such Appeal, in
15 such and the same Manner as he is at present empowered to do in Cases of Appeal from Decrees on Civil Bills made by Assistant Barristers at Quarter Sessions in Ireland: Provided always, that if such Dam, Weir, or Dyke shall be situate in more than One County or between Two or more Counties, such Appeal shall be tried at the
20 Assizes to be held in the County the Assize Town of which shall be nearest to such Weir, Dam, or Dyke; and provided also, that if no Notice of Appeal shall be served on the said Commissioners within *Twenty-one* Days next after their Award shall be made the same shall be final, binding, and conclusive upon all Persons and to all
25 Intents and Purposes whatsoever.

XXIX. And be it enacted, That in all such Cases of Appeal as aforesaid the said Judges of Assize, or One of them, shall give Judgment in respect to the Matter of such Appeal, and such Judgment shall be final, binding, and conclusive to all Intents and Purposes
30 against all Parties, Corporations, and Persons.

XXX. And be it enacted, That such of the aforesaid Awards of the said Commissioners as shall not be appealed from, and the Judgments so given as aforesaid, shall be respectively transmitted to and be kept by the respective Clerks of the Peace of the Counties in
35 which the Land in respect of which such Awards or Judgments shall have been respectively made shall be situate, and shall be deposited with the Records, and deemed Records of such Counties respectively, to all Intents and Purposes, and the same, or certified Copies thereof, shall be allowed to be good Evidence in all Courts whatsoever, and all Persons shall have Liberty to inspect the same, paying for such Inspection the Sum of *Sixpence*, or to have Copies thereof, paying for every Copy the Sum of *Three Halfpence* for
350. E every

every Seventy-two Words, and so in proportion for any greater or less Number of Words.

How the
Award or
Judgment
shall be en-
forced.

XXXI. And be it enacted, That upon Award or Judgment being so made and transmitted as aforesaid the said Commissioners shall cause a final Notice to be served on the Proprietor, Lessee, or Occupier of such Weir, Dam, or Dyke, and a Copy thereof to be published once in the Dublin Gazette, and once in each Week for Three successive Weeks in some One or more Newspapers circulating in the County or Counties in which such Weir, Dam, or Dyke shall be situate, stating that all the Requisites of this Act in respect to the making such Award or Judgment had been fully complied with, and calling upon all Parties liable under such Award or Judgment to pay to the said Commissioners, within a Time to be specified in such Notice, not less than Three Months from the Date thereof, the Sums of Money which such Parties thereby became liable to pay; and the Publication of such Notice shall be deemed final and conclusive Evidence that such Assent had been given, and that the several preliminary Measures herein-before required to be taken and observed in respect to such Award or Judgment had been duly taken and observed; and from and after the Publication of such Notice all the Parties liable under such Award or Judgment shall be bound to contribute the Sum awarded, assessed, or ascertained, in the Proportions fixed by such Award or Judgment, and within the Time specified in such Notice.

If not paid
it may be
used for.

XXXII. And be it enacted, That if any Portion of the Money so to be contributed shall remain unpaid to the said Commissioners after the Expiration of the Time specified in such Notice as last aforesaid, then it shall be lawful for the said Commissioners to recover the same from the Parties liable thereto under the said Award or Judgment, who shall make default in the Payment thereof, by Civil Bill, or by Action or Suit in any of the Superior Courts in Dublin.

Compensa-
tion to be
paid next,
when re-
ceived, and
the Altera-
tions in the
Weir, &c.,
to be made,
as directed
by the 5 & 6
Vict. c. 106.

XXXIII. And be it enacted, That upon Receipt of the Money so agreed, awarded, or adjudged to be paid as Satisfaction or Recompence for enlarging or opening such Free Gap or Queen's Share in such Weir, Dam, or Dyke, under the Provisions herein-before contained the said Commissioners shall forthwith pay the same to such Persons or in such Manner as is provided and directed by the said Act of the Sixth Year of Her Majesty, in regard of Monies agreed, awarded, or adjudged to be paid as Satisfaction or Recompence for enlarging or opening a Free Gap or Queen's Share under the Provisions of the said last-mentioned Act; and thereupon the said Commissioners

missioners shall take such Proceedings for the Purpose of causing the required Alterations in such Weir, Dam, or Dyke to be made and completed, and the objectionable Parts thereof to be removed, as they are by the said Act of the Sixth Year of Her said Majesty empowered to take in the Cases specified in or arising under the said Act for the like Purposes.

XXXIV. Provided always, and be it enacted, That if any Weir, Dam, or Dyke used for sustaining a Supply of Water to Mills, Factories, or Navigation shall be, by virtue of Act of Parliament, Charter, or Prescription, legally used for the catching of Salmon or other Fish, nothing herein-before contained respecting the making or maintaining a Free Gap or Queen's Share, or the Length of such Spur or Tail Walls, shall be construed to extend to such Weir, Dam, or Dyke, so as injuriously to affect the necessary Supply of Water Power to such Mill, Factory, or Navigation.

Saving for Weirs legally used for fishing.

XXXV. And be it enacted, That in all Cases where the said Commissioners shall, by virtue of the Provisions in this Act contained, open or cause to be opened, in any Weir, Dam, or Dyke, a Gap of the Dimensions prescribed by this Act, or remove any Obstructions hereby declared to be illegal, it shall not be necessary for the said Commissioners, or any Person executing their Orders, to rebuild any Part of such Weir, Dam, or Dyke, or of the Works appertaining thereto, nor to fix up or erect altered or improved Boxes, Rails, or Cranes, nor shall they be answerable or accountable for any Damage or Injury arising to such Weir, Dam, or Dyke, or to such Box, Rail, or Crane, in consequence of such Removal as aforesaid.

Commissioners not bound to do more than open the Passages required by this Act, and not liable for consequential Damages.

XXXVI. Provided always, and be it enacted, That nothing herein or in the said recited Acts contained shall be construed to legalize any Claim of Several Fishery, or to give any Right whatsoever to any Person to erect or maintain or use any Weir, Dam, Dyke, or Leader which is or shall be an Obstruction or Hindrance to the Navigation of any navigable River or Lake, or to the free and uninterrupted Discharge of the Waters of any River, whether for the Purpose of fishing or of draining the Lands adjoining thereto, or of improving the Water Power thereof for the Use of Mills or Factories; and that, except as herein-before provided with respect to Stake and fixed Weirs, nothing herein or in the said recited Acts contained shall be construed to legalize any Weir now or which may be hereafter erected, and that, notwithstanding the said recited Acts and this

Nothing herein contained to legalize any Fishery or Weir, nor to empower any Person to obstruct Navigation.

Act every such Obstruction or Hindrance as aforesaid shall be deemed and taken to be unlawful.

Owners of
Several Fish-
eries may
enter Lands,
&c.

XXXVII. And be it enacted, That for the lawful and bona fide Purposes of a Several Fishery in any Lake, River, Stream, Pond, or Water, the Owner of such Fishery or any Person by him duly authorized, may enter upon the Lands of any other Person adjoining unto such Lake, River, and Stream, Pond or Water, with or without the Permission of the Owner or Occupier of the said Lands, if such Entry shall be necessary for the better Enjoyment of such Right of Fishery. 5

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Power to
make Oyster
Beds.

XXXVIII. And be it enacted, That it shall and may be lawful for the Owner or Occupier of any Land bordering on the Sea or any Estuary, with the Permission in Writing of the said Commissioners, or for any Person or Persons, with the Consent of such Owner or Occupier, and with the Permission in Writing of the said Commissioners, to form or plant any Oyster Bed or Laying on the Shore adjacent to such Lands, and either above or below the Level of the lowest Water Marks of Spring Tides, as the said Commissioners shall think fit; and it shall be lawful for the several Persons forming or planting any such Oyster Bed or Laying to hold the same as private Property, and to exercise an exclusive Control over the same, and such Oyster Beds shall be entitled to the like Protection as by the said recited Acts is provided in case of any other Oyster Beds or Layings being the exclusive Property of any Person: Provided always, that the forming and planting of such Oyster Beds as aforesaid shall not give any exclusive Right or Title to the Occupancy of the said Shore, except for the Purpose aforesaid, or to the Appropriation of any public Banks or Beds at present resorted to for Oysters, but that the Rights herein-before granted and conferred are to be considered as exclusively applying to Places where no such public Oyster Beds at present exist; saving to the Queen's most Excellent Majesty and all the Subjects of this Realm the free and full Exercise and Enjoyment of all other Rights of Fishing or other Rights whatsoever in or along the said Shore, subject to the Provisions herein contained. 15 20 25 30

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Pecalty for
stealing
Oysters or
Oyster
Brood.

XXXIX. And be it enacted, That if any Person shall steal any Oysters or Oyster Brood from any Oyster Bed or Laying, being the exclusive Property of any other Person or Persons, and sufficiently marked out and known as such, every such Offender shall be deemed guilty of Larceny, and being convicted thereof shall be punished accordingly, unless it shall appear that the Party taking such Oysters, or accused 40

accused of stealing the same, acted under a fair and reasonable Supposition that either he himself, or any other Person in whose Right or by whose Authority he acted, or the Public at large, had a Right to take the said Oysters, and to convert the same to his or
5 their own Use.

XL. And be it enacted, That Stake Weirs, Stake Nets, and other fixed Nets, in the Sea or Tidalways shall be so placed and erected, maintained and used, as that clear Openings for the free Passage of Fish as in the said recited Acts provided, can be made in the Pouches
10 and Traps thereof; and if any Person shall offend by placing, erecting, maintaining, or using any Weir, Net, Leader, Engine, or Work in any Manner hereby prohibited, or neglect to construct the same in the Mode required by the Provisions herein-before contained, he shall for every such Offence forfeit a Sum not exceeding *Ten Pounds* nor
15 less than *One Pound*.

Further
Regulations
as to Stake
Nets, &c.

XLI. And be it enacted, That it shall not be lawful for any Person, save and except the Owner of a Several Fishery within the Limits thereof, at any Time to shoot, draw, or use any Net for taking Salmon at the Mouth of any River opening into the Sea (the Inland
20 or Freshwater Portion of which River is frequented by Salmon), where the Breadth of such Mouth between the Banks thereof shall not exceed a Quarter of a Mile Statute Measure; and that it shall not be lawful for any Person, save such Owner as aforesaid, within such Limits as aforesaid, to shoot, draw, or use any Net for taking Salmon
25 within Half a Mile Seaward, or Half a Mile Inwards, or along the Coast from the Mouth of any such River, such Mouth to be defined, ascertained, and mapped, in case of Dispute by the said Commissioners; and that it shall not be lawful for any Person, save and except the Owner of a Several Fishery in the whole of a River and its Tribu-
30 taries, within the Limits of such Several Fishery, to shoot, draw, stretch, or use Nets at the Mouth or any other Part of any River in such wise as to be injurious or detrimental to the free Passage of Fish; and if any Person shall offend by shooting, drawing, stretching, or using any Net in any Place or Manner hereby pro-
35 hibited, he shall for every such Offence forfeit a Sum not exceeding *Ten Pounds* nor less than *One Pound*; and also the further Penalty of *Five Shillings* for every Fish taken by means of such Net in such Place and Manner so prohibited as aforesaid; and such Net shall also be forfeited.

Note for tak-
ing Salmon
not to be
used at the
Mouths of
narrow
Rivers, nor to
be stretched
across the
Mouths or
any other
Parts of
Rivers.

XLII. And be it enacted, That no Person shall kill, take, or destroy, in any Lakes or Rivers, any Trout between the *Twenty-ninth Day of September* in any Year and the *last Day of February* in the
350. F Year

Year following, nor shall any fixed Crib, Cruive, Box, or other Device, nor any Haul, Draw, or other Net of any Description, for the catching of such Trout, be used in any Lake or River frequented by Salmon between the *First and Twenty-ninth Day of September* in any Year, or at such Periods as may be fixed for certain Lakes and Rivers by the said Commissioners, under the Powers in the said recited Acts contained.

Penalties for
not opening
or removing
Cribs, &c. in
weekly Close
Time.

XLIII. And be it enacted, That any Person occupying or using any Crib, Box, Cruive, Stake, Flood, Ebb, or Head Weir, Stake, Bag, or other fixed Net, Basket, or other Engines for catching Fish, and failing to remove or open the same as required by the said Act of the Sixth Year of Her Majesty, and any Person using any Means, Device, or Contrivance to prevent the free Passage through such Box, Cruive, or Engine, or in any way or by any Means wilfully frightening or scaring, or attempting to frighten or scare, any Salmon or other Fish from passing through such Box, Crib, Cruive, Pouch, Trap, Eye, Sluice, Gup, or other Engine, or taking therein any Salmon between *Six of the Clock on Saturday Evening and Six of the Clock on Monday Morning*, or between the Low Waters next in point of Time to those Periods respectively, as the Case may be, shall for every such Offence forfeit and pay a Sum not less than *Twenty Pounds* and not exceeding *Fifty Pounds*. Provided always, that nothing herein contained shall be construed to render liable to any Penalty any Person who shall be able satisfactorily to prove that he was prevented by Floods, Storm, or Stress of Weather from removing such Leaders or making such Openings as aforesaid, during the Continuance of such Prevention, but no longer.

Recovery of
Expenses.

XLIV. And be it enacted, That whosoever, under the Provisions of this Act or the said recited Acts, any Justice or Justices of the Peace or the said Commissioners or Conservators are authorized or empowered or required to execute any Work, or remove or alter any Weir or other Erection, or to do any Matter or Thing, at the Expense of any Offender, such Justice or Justices or Commissioners or Conservators, as the Case may be, shall ascertain the Amount of such Expenses, and direct Payment thereof to be made by such Offender to such Person as he or they may think fit, and it shall be lawful for such Person to sue for and recover the same by Civil Bill or by Action or Suit in any of the Superior Courts in Dublin; and a Certificate in Writing under the Hand or Hands of such Justice or Justices, or Commissioners, or Conservators, as the Case may be, shall be conclusive Evidence of the Amount of such Expenses, and of the Liability of the Party therein named to pay the same, and of the Right of the Person thereby authorized to sue for and recover the same.

XLV. And

XLV. And be it enacted, That all Penalties directed to be enforced against any Person or Persons offending contrary to the Provisions of this Act or the said recited Acts shall be levied by the same Persons and in the same Manner as all Fines and Penalties may by Law be levied, or by the Officers and Men of the Coast Guard Service or of the Constabulary Force.

The Mode in which Penalties are to be levied.

XLVI. And be it enacted, That the Justice or Justices before whom any Person shall be convicted of any Offence against this Act or of any of the said recited Acts shall cause the Conviction to be drawn up in the following Form of Words, or in any other Form of Words to the same Effect; (that is to say,)

Form of Conviction.

BE it remembered, That on the Day of in the Year of
our Lord at in the County of [or, City,
Town, or Place, as the Case may be,] A.O. is, upon the Complaint
of G.H., convicted before me J.P., One of Her Majesty's Justices
[or, before us, C.D. and E.F., Justices] of the Peace for the said
County of in pursuance of an Act made in the
Year of the Reign of Her Majesty Queen Victoria, intitled [here
insert the Title of the Act], for that the said A.O. [here state the
Offence, and the Time and Place when and where the same was
committed]; and I [or, we] do hereby adjudge him to pay and
forfeit for the said Offence the Sum of of lawful Money
of Great Britain, together with the further Sum of for
Costs of Suit and Prosecution of the said G.H.; [and in case any
Nets or other Engines are to be forfeited] I [or, we] do hereby
further adjudge that the Nets or other Engines, &c. &c. [describing
the same], be and the same are hereby forfeited. Given under my
Hand and Seal [or, our Hands and Seals, as the Case may be],
at in the County of the Day and Year above
written."

Which said Conviction and Adjudication shall be good and valid in Law to all Intents and Purposes, and shall not be quashed, set aside, or adjudged void or insufficient for Want of Form only, and shall not be liable to be removed by Certiorari or otherwise into Her Majesty's Court of Queen's Bench, or any other of Her Majesty's Courts of Record at Dublin, but shall be deemed and taken to be final to all Intents and Purposes whatsoever, unless the same shall be reversed on Appeal as herein-after provided: Provided always, that no Person shall be convicted of any Offence committed against the Provisions of this Act unless the Prosecution for the same shall be commenced within Six Calendar Months from the Time of the Commission of such Offence.

Appeal from
Convictions
to Judges of
Assize.

XLVII. And be it enacted, That in all Cases where by the said recited Acts or this Act any Right of Appeal is given to any Person who shall think himself aggrieved by any Judgment, Order, Proceeding, or Conviction of the said Commissioners or any Justice or Justices of the Peace, such Appeal shall (subject to the specific Provisions herein-before contained) be to the next going Judges of Assize at the Assizes to be held for the County or for the City or Place where such Judgment, Order, Proceeding, or Conviction shall have been given, had, or made, provided that such Assizes or General Quarter Sessions shall be held at any Time not less than *Twenty-one Days* after the Time such Judgment, Order, Proceeding, or Conviction shall have been given, had, or made; and in case such Assizes shall be held within *Twenty-one Days* from the Time of such Judgment, Order, Proceeding, or Conviction, such Appeal shall be to the going Judges of Assize for the Assizes to be holden next but One after such Judgment, Order, Proceeding, or Conviction in such Division of the County, City, or Place as aforesaid, and that no such Appeal shall be allowed, received, heard, or determined unless the Party appealing shall within *Ten Days* next after, or, if such Justice or Justices shall think right so to require it, immediately on the pronouncing, having, or making of such Judgment, Order, Proceeding, or Conviction, enter into a Recognizance, with Two sufficient Sureties, before such Justice or Justices, or before any other Magistrate of such County, City, or Place, in a Sum not less than *Ten Pounds*, conditioned personally to appear at the said Assizes to try such Appeal, and abide the Judgment of the Court, and to pay such Costs and Expenses as the said Judges at the said Assizes may award against him.

Form of
Dissolved

XLVIII. And be it enacted, That in case any Justice or Justices of the Peace shall dismiss any Complaint made under the Authority of this Act or of the said recited Acts, or any of them, such Dismissal shall be drawn up and signed by such Justice or Justices in the Form following; (that is to say,) 50

BE it remembered, That on the _____ Day of _____ in
the Year of our Lord _____ C.D. of _____
charged before me [or, us] on the Complaint of A.B. of _____ was
for that the said C.D. did [here state the Offence charged, and the
Time and Place when and where the same was committed], con- 35
trary to the Provisions of an Act, intitled [here insert the Title
of the Act]; and it appearing to me [or, us] that the said C.D. is
not guilty of such Offence so charged against him as aforesaid by
the said A.B., we therefore do adjudge that the said Complaint be 40
and the same is hereby dismissed. Given under my Hand and Seal
[or, our Hands and Seals, as the Case may be], at _____ in the
County of _____ the Day and Year first above written.

And³

And if any Person prosecuting shall feel aggrieved by such Order of Dismissal it shall and may be lawful for such Person to appeal to such Judges of Assize as herein-before directed with regard to Appeals from any Conviction, upon giving the like Notice as herein-before prescribed, and entering into a Recognizance, with Two sufficient Sureties, before any Magistrate, in any Sum not less than Ten Pounds, conditioned for the Payment of all such Costs and Expenses as shall be adjudged against him on the Hearing of such Appeal.

Appeal
against
Dismissal.

XLIX. And be it enacted, That it shall and may be lawful for the Judges of Assize assembled at any such Assizes as aforesaid to rehear the Subject Matter of such Conviction or Order of Dismissal as last aforesaid, and either affirm or reverse the same, or impose or increase or reduce any Penalty which may have been adjudged, such Imposition or Increase nevertheless not to amount to a greater Sum nor such Reduction to be to a smaller Sum than by this Act or the said recited Acts is directed; and in case such Conviction shall be affirmed it shall be lawful for such Judges to award such Costs and Expenses to the Prosecutor, and any Witnesses who may be examined in support of such Prosecution, as they may think reasonable; and in case the Party appealing from any such Order of Dismissal as aforesaid shall not appear at such Assizes as aforesaid to prosecute the same, such Order of Dismissal shall be affirmed; and it shall be lawful for the said Judges to award to the Person accused such Costs and Expenses of Witnesses as they think reasonable; and in case any Appellant or Respondent on any such Appeal shall not pay any Costs or Expenses which may be so awarded against him his Recognizances shall be estreated.

Proceedings
on Appeal.

L. And be it enacted, That it shall be lawful for the Commissioners, Judges of Assize, Justices of the Peace, or any of the Courts in this Act or in the said recited Acts mentioned, where any Complaint, Suit, Action, or Indictment shall have been heard or tried and determined before them respectively under this Act or the said recited Acts, to order that the Costs, Charges, and Expenses of and incident to such Complaint, Suit, Action, or Indictment, and the Proceedings therein, and the Hearing or Trial and Determination thereof, shall follow the Event of the same respectively, and be borne and paid, by the Party against whom the same shall have been determined, to the Officer, Informer, or other Party instituting or conducting the same; and that such Costs, Charges, and Expenses shall be estimated, either as between Party and Party, or as between Attorney and Client, at the Discretion of such Commissioners, Judges, Justices, or Courts respectively; which Costs, Charges, and Expenses, being so ordered as aforesaid, shall be recovered against the Party therewith charged in

Costs may
award Costs.

the same Manner as is herein-before specifically provided with respect to Costs in certain Cases.

Recited Acts
to be read
with this
Act.

I.I. And be it enacted, That this Act and the said recited Acts shall for the Purposes thereof respectively be read and construed together as One Act, and the said recited Acts shall remain in full Force and Effect, except where the Provisions thereof are repealed or altered by this Act or are repugnant thereto.

Act may be
amended this
Session.

I.II. And be it enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

10

SCHEDULE to which the foregoing Act refers.

SCALE of LICENCE DUTIES for each ENGINE, NET, INSTRUMENT, or DEVICE used in fishing for SALMON, TROUT, POLEN, or EELS in DISTRICTS.

	£	s	d.
1. Single Salmon Rods - - - - -	0	5	0
2. Cross Lines and Rods - - - - -	2	0	0
3. Snap Nets - - - - -	0	10	0
4. Draft Nets or Seines - - - - -	0	10	0
5. Drift Nets - - - - -	0	10	0
6. Trammel Nets - - - - -	0	10	0
7. Pole Nets - - - - -	0	10	0
8. Other or similar Engines or Devices not enumerated above - - - - -	Each Licence Duties as the Commissioners or Conservators may fix and appoint.		
9. Solid Weirs across Rivers, having the Queen's Gap of such Dimensions and in such Condition as is required by Statute - - -	20	0	0
10. Solid Weirs across navigable Rivers, not having the Queen's Gap of such Dimensions and in such Condition as required by Statute - -	100	0	0
11. Solid Weirs across other Rivers, not having the Queen's Gap of such Dimensions and in such Condition as required by Statute - - -	50	0	0
12. Bag Nets - - - - -	20	0	0
13. Fly Nets - - - - -	10	0	0
14. Stake Nets or Stake Weirs - - - - -	20	0	0
15. Head Weirs - - - - -	3	0	0
16. Stop or Still Nets - - - - -	10	0	0
17. For every Box, Crib, Craive, or Drum Net in any Weir for taking Salmon, Trout, or Pollen - - -	5	0	0
18. For every Gap, Eye, or Basket in any Weir for taking Eels - - - - -	1	0	0
19. Other or similar Engines or Devices not enumerated above - - - - -	Each Licence Duties as the Commissioners or Conservators may fix and appoint.		

Note.—Every Engine, Net, Instrument, or Device, if intended to be used for fishing Fixed Fisheries for Salmon or Trout claimed as "Several Fisheries" - - - - -

To pay such Duty, higher than according to the above Scale, (not being more than double the maximum Amount of Duty), as the Commissioners or Conservators shall order.

Engines for taking Fish.

(Ireland.)

A BILL

To amend the Law relating to Engines
used in the Rivers and on the Sea
Coast of Ireland for the taking of Fish.

(*Prepared and brought in by*
Mr. Austin, Lord North, and The O'Connell
Motion.)

Ordered, by The House of Commons, to be Printed,
16 May 1834.

830.

Under 4 c2.